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DAMON ABNOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

SELTZER CAPLAN McMAHON VITEK, a Law Corporation, Petitioner, v. DAMON ABNOS, an individual, Respondent.	Case No. 3:08-cv-00201-WQH-WMc **DECLARATION OF ERIN M. SUNSERI IN SUPPORT OF RESPONDENT DAMON ABNOS' OPPOSITION TO PETITIONER SELTZER CAPLAN MCMAHON VITEK'S MOTION TO REMAND ACTION TO STATE COURT** Judge: Hon. Dana M. Sabraw Courtroom: 10 Date: April 25, 2008 Time: 1:30 p.m.

I, Erin M. Sunseri, declare and state as follows:

1. I am an attorney licensed to practice in the State of California. I am one of the attorneys assisting Mr. Maiorano on this matter. I have personal knowledge of the facts set forth herein and could and would testify competently thereto if called as a witness.

2. Upon receipt of Petitioner's Petition to confirm the arbitration award, I contacted Dept. 64 and spoke with the clerk to clarify how the petition could have been filed in the dismissed original state court action.

3. The clerk advised me that the case was reporting as an active case, because no dismissal had been filed in the action.

4. I advised the clerk that a dismissal had, in fact, been filed in the action.

5. After searching the court file for several minutes, the clerk reported again that there was no dismissal on file; accordingly, the case was still reporting as an active case.

6. The clerk went on to state that if a dismissal had been filed in the action, Petitioner's petition to confirm the arbitration award would never have been accepted for filing under that case number, because filings are not accepted on dismissed cases.

7. I again advised the clerk that a dismissal had been filed in the action in June 2007, but she was still unable to locate any record of the dismissal.

8. The clerk again stated that if the case was dismissed, the petition should not have been accepted for filing.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on April 11, 2008, at San Diego, California.

Erin M. Sunseri, Esq.